

REMARKS**Status of the claims:**

With the above amendments, claims 1, 9 and 15 are amended, claim 2 has been previously canceled, and claims 15-17 have been withdrawn from a previous restriction requirement. No new matter has been added by way of the above amendments. Claim 1 has been amended simply to make it clearer. Claim 9 has been amended to provide correct antecedent basis. Claim 15 has been amended by incorporating the subject matter of claim 1 into it. Reconsideration is respectfully requested in light of the following remarks.

Restriction

The Examiner has restricted claims 15-17 because they are directed to a "method of use" whereas claims 1 and 3-14 are directed to "product" claims. Applicants submit that with the above amendment to claim 15, wherein the elements of claim 1 are inserted into claim 15, the "method of use" claims (i.e., claims 15 and claims dependent therefrom) must necessarily be new and non-obvious if the product claims are new and non-obvious. Therefore, if and when the Examiner finds claim 1 to be allowable, Applicants respectfully request rejoinder of the
method-of-use claims 15-17 and allowance of those claims.

Rejections under 35 USC §112, second paragraph

Claims 1 and 3-11 have been rejected under 35 USC §112, second paragraph as being indefinite.

The Examiner asserts that in lines 8-10 of claim 1 the phrase "the pore volume determined by the mercury intrusion porosimetry method is 0.87 cm³/g or greater" is indefinite because it does not particularly point out what applicants intend to recite. Applicants disagree. Applicants respectfully point the Examiner to the Examiner's Interview Summary from March 12, 2003 that says:

Catalyst claims discussed. Attorney urged that limitation of claim 2, which is now incorporated into claim 1, is not a narrow range within a broad range situation, but rather it specifies a pore volume of 0.87 cm³/g or greater is being a total pores. Examiner agreed. Process claims 12-14 & the Simpson reference also discussed. Attorney will review the art again. Examiner indicated will rejoin the process of use claims 15-17 if the product limitations are incorporated into these claims.

Thus, Applicants respectfully inquire as to why the Examiner did not appear to find the claim indefinite at the Interview but in the most recent Office Action does find it indefinite. In the "Response to Amendment/ Arguments" section of the Office Action, the Examiner does not really indicate why this phrase is found to be indefinite. Nevertheless, Applicants have amended claim 1 slightly to unambiguously recite what is meant by the claim. In

particular, Applicants have inserted the words "of all pores" prior to the phrase "determined by the mercury intrusion porosimetry method is 0.87 cm³/g or greater". Applicants believe with this amendment that the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

20 The Examiner also asserts that "metal deposition" and "fresh catalyst" in claim 9 lack antecedent basis. Applicants have amended claim 9 to recite "a metal deposition" and "a fresh catalyst". Applicants believe that with this amendment that the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

Rejections under 35 USC §103

Claim 12 is rejected under 35 USC §103(a) as being unpatentable over Simpson '265 (US Patent No. 4,879,265).

Claims 13-14 are rejected under 35 USC §103(a) as being unpatentable over Simpson '265 in view of Asaoka '059 (US Patent No. 4,562,059).

Applicants traverse.

Applicants point out that at page 6, lines 6-9 in the written description, the term γ-alumina is defined as transition alumina with peaks at $2\theta = 46^\circ$ and 67° in X-ray diffraction at a wavelength of 0.154 nm. Thus, one of skill in the art would

immediately recognize that the γ -alumina is crystalline in the instant application. Neither Simpson '265 nor Asaoka '059 disclose or suggest a crystalline γ -alumina.

Thus, Applicants assert that the Examiner has failed to make out a *prima facie* case of obviousness with regard to the 35 USC §103(a) rejection over Simpson '265 in view of Asaoka '059. Three criteria must be met to make out a *prima facie* case of obviousness.

- 1) There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.
- 2) There must be a reasonable expectation of success.
- 3) The prior art reference (or references when combined) must teach or suggest all the claim limitations.

See MPEP §2142 and *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991). In particular, the Examiner has failed to meet the third element to make a *prima facie* obviousness rejection. Neither Simpson '265 nor Asaoka '059 disclose or suggest a crystalline γ -alumina. The rejections over Simpson '265 and over Simpson '265 in view of Asaoka '059 are inapposite. Withdrawal of the rejections is warranted and respectfully requested.

With the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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